

SPECIFIC WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
APRIL 2003 AGENDA
Item No. W-6

<p>TITLE: Request by Emery Unified School District for fiscal year 2000-2001 to waive <i>Education Code (EC)</i> Section 46201(c), the requirement to offer 64,800 minutes at the ninth through twelve grades at Emery High School. For fiscal year 2001-2002, Emery Unified School District requests a waiver for <i>Education Code (EC)</i> Section 46201(d), the requirement to offer 64,800 minutes at the ninth through twelve grades at Emery High School.</p> <p>CDSIS: 10-01-2003 Emery Unified School District (FY 00-01) 25-03-2003 Emery Unified School District (FY 01-02)</p>	<p><input checked="" type="checkbox"/> ACTION <input type="checkbox"/> INFORMATION <input type="checkbox"/> PUBLIC HEARING <input type="checkbox"/> CONSENT</p>
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RECOMMENDATION:

The Department recommends approval on the condition that the district increase instructional time at **Emery High School** to 65,890 minutes per year (64,800 minutes plus the 143 minutes short in fiscal year 2000-2001 and 947 minutes short in fiscal year 2001-2002 for an increase of 1090 minutes) for a period of two years beginning in 2003-2004 and continuing through 2004-2005, and report the increase in its yearly audits.

Summary of Previous State Board of Education Discussion and Action:

On January 1, 2002, with SB 178, the existing *EC* authority, Section 46206 was repealed, and a new Section 46206 added to the *EC*. In the fall of 2002, AB 1227 was passed by the Legislature and signed into law by the Governor. It authorizes waivers to be granted for fiscal penalties created by shortfalls of instructional time **in the 2000-01 fiscal year** or thereafter only if the makeup minutes or days, or both, are commenced not later than the school year following the year in which the waiver is granted and removes the 900 minute restriction for waivers of this type. All waivers must go to action on the SBE's agenda.

Summary of Key Issue(s):

Emery Unified School District requests a waiver of *EC* Section 46201(c), the longer day instructional time penalty, which states that sixty four thousand eight hundred minutes of instructional time must be offered in grades nine through twelve. In fiscal year 2000-01, Emery High School failed to meet their requirement of 64,800 minutes instructional minutes by 143 minutes. The auditor also found that the district did not meet the instructional day and instructional minute requirements because of non-credentialed teachers in the classroom. These findings resulted in severe fiscal penalties of \$580,036. The district was able to

remove the penalties created by the non-credentialed teachers by the passage of AB 2589, Aroner, leaving only the shortage of 143 minutes. **The remaining fiscal penalty is \$16,321.**

In fiscal year 2001-2002, after reviewing the bell schedules, the auditor found that Emery High School was short by 947 minutes. **The fiscal penalty for fiscal year 2001-2002 is \$21, 553 for a total penalty of \$37,874 for both fiscal years.**

The district has been struggling for several years. The situation became so bad that the California Department of Education is now administering the district. Henry Der was appointed State Administrator in 2001. In order to mitigate these problems and not financially harm the district, the department recommends approval of this waiver. The department is recommending that both fiscal year time penalties be combined into one condition: beginning in fiscal year 2003-04, and continuing through fiscal year 2004-05, the school will begin making up the shortage by offering 65,890 total instructional minutes (143 minutes short from fiscal year 2000-2001 and 947 minutes short in fiscal year 2001-2002) for a total of 1090 additional minutes over the 64,800 minutes required by law at **Emery High School** and report the increase in its yearly audits.

Authority for the waiver: 46206

Bargaining unit(s) consulted on: Not required

Position of bargaining unit (choose only one):

☐

Neutral

☐

Support

☐

Oppose

Name of bargaining unit representative: N/A

Local board approval date: 12/27/02 and 03/07/03

Effective dates of request: 07/01/00 to 06/03/01 and 07/01/01 to 06/30/02

Fiscal Analysis (as appropriate):

- In fiscal year 2000-2001, the repayment amount for offering less than the 1986-87 minutes per *Education Code* Section 46201(c), as required by law is: 232.26 (Affected ADA) times \$70.27 (Penalty Amount) equals **\$16,320.91.**
- In fiscal year 2001-2002, the repayment amount for offering less than the 1986-87 minutes per Education Code Section 46201(d), as required by law is: 266.31 (ADA) times \$5,57.89 (Base Revenue Limit) times 1 (Deficit Factor) equals \$1,474,795.49 (Apportionment); 947 (Number of Minutes Short) divided by 64,800 (Required Minutes) equals 0.014614198 (Percentage); \$1,474,795.49 times 1.46 (Percentage) equals **\$21,552.95.**
- Total penalty for both fiscal years is: **\$37,874.**

Background Information:

Waiver request forms and supporting documents are attached.